

### REMARKS/AGRUMENTS

In response to the above-identified Final Office Action, Applicants have amended their application and respectfully request reconsideration thereof.

#### *Amendment of Claims*

Claims 1 and 22 have been amended to include subject matter corresponding substantially to that of cancelled claims 5 and 7 and amended claim 8. A similar amendment has been made to claim 32 corresponding to substantially that of canceled claims 36 and 38 and amended claim 39.

Claim 6 has been amended to depend on claim 1 and claim 37 has been amended to depend on claim 32.

Applicants acknowledges that an amendment to any finally rejected claim cannot be entered as a matter of right; however, claim amendments may be entered where they merely adopt examiner's suggestions; remove issues for appeal or, in some other way, require only a cursory review. Applicants believe their proffered amendments will require a cursory examination by their Examiner and have placed their claims in condition for allowance.

*Response to Claim Rejections – 35 USC § 103*

Claims 1-11, 13-22, 24-42 and 44-52 stand rejected under 35 U.S.C. § 103(a), as being allegedly unpatentable over U.S. PatentNo. 6,493,695 (hereinafter Pickering) in view of U.S. Patent No. 5,926,539 (hereinafter Shtivelman) and in further view of U.S. Patent No. 5,301,320 (hereinafter McAtee). Reasons for rejection of claims 1-11, 13-22, 24-42 and 44-52 appear below:

Applicants respectfully submit that claims 1-11, 13-22, 24-42 and 44-52 should not be rejected under 35 U.S.C. § 103(a) for the reason that prior art references when combined do not teach or suggest all of the claim limitations of the independent claims of the present application. Reasons for rejection of claims 1-11, 13-22, 24-42 and 44-52 appear below.

To establish a **prima facie** case of **obviousness**, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Claim 1, as amended, includes the following limitations:

wherein the receiving of the plurality of agent data comprises receiving status messages from the plurality of agents and each status message provides agent

availability data that comprises whether an agent of the plurality of agents accepts a task upon a system overloaded condition.

The Final Office Action, in rejecting claim 8, contends that the above limitation is anticipated by the following disclosures in Shtivelman:

In another aspect, in a call center....and (c) determining that the agent is available only if the agent is not involved in a live network call and the level of uncompleted activities in the electronic task list is below the preset comparison level. In this method activities other than communication with clients (tasks) involve answering stored e-mails, and the level of uncompleted activities comprises a number of unanswered e-mail messages.

Shtivelman, Col. 3, lines 12-39.

In yet another aspect a multimedia-capable call center is provided... a routine adapted for determining Busy/Available status for an agent. In this the routine determines an agent as available only if the agent is not engaged in a live network call and the level of uncompleted tasks is below a preset level. Tasks for an agent may include messages stored for an agent to answer, such as voice mail, e-mail, video mail messages, and any other type of message (Multimedia).

Shtivelman, Col. 3, lines 47-56.

In yet another aspect a software routine for determining agent status in an agent-level routing system...The software routine returns Agent Busy if there is an active network call or the level of uncompleted tasks is above a preset level, and Agent Available if there are no active network calls and the level of uncompleted tasks is at or below the preset level. In this aspect the protocol for checking for uncompleted tasks checks for one or more of voice mail, e-mail, video mail messages, and any other type of message (Multimedia) left for the agent at the station to handle.

Shtivelman, Col. 3, lines 57 – Col. 4, line 7.

The above three quotes from Shtivelman describe three aspects of the invention disclosed in Shtivelman including a call center, a multimedia-capable call center and a

software routine. Each aspect determines whether an agent is busy or available. Each aspect determines the agent is available if the agent is not involved in a live network call and the level of uncompleted tasks is below a preset level. Each aspect describes different types of live network calls and tasks.

Claim 1 requires receiving a status message from an agent that includes agent availability data that includes whether the agent accepts a task upon a system overloaded condition. Merely for example, in one embodiment, a status message may be received with agent availability data that indicates, "AVAILABLE IF NEEDED", which is useful "if persons with ...positions in the company have the skills needed to assist in handling tasks when the volume of tasks exceeds a predetermined threshold (Application, page 6, lines 8-15). In contrast, the above quotes from Shtivelman do not disclose receiving a status message from an agent that indicates whether the agent accepts a task upon a system overloaded condition; but rather, a call center, a multimedia-capable call center and a software routine that determine whether an agent is busy or available. Indeed, the above quotes do not discuss a system overload condition, much less receiving a status message from an agent with respect to such a condition. Shtivelman therefore cannot be said to anticipate the above quoted limitation because Shtivelman discloses that a call center, a multimedia-capable call center and a software routine that determine whether an agent is busy or available and claim 1.

requires receiving a status message from an agent that includes agent availability data that includes whether the agent accepts a task upon a system overloaded condition.

Independent claims 22 and 32 each include a limitations corresponding substantially to the above-discussed limitations of claim 1. The above remarks are accordingly also applicable to a consideration of these independent claims.

In addition, if an independent claim is nonobvious under 35 U.S.C. § 103(a) then, any claim depending therefrom is nonobvious and rejection of claims 2-4, 6, 8-11, 13-18, 20-21, 24-31, 33-35, 37 and 39-52 under 35 U.S.C. § 103(a) is also addressed by the above remarks.

In summary, Pickering in combination with Shtivelman and McAtee does not teach or suggest each and every limitation of claims 1-11, 13-22, 24-42 and 44-52 as required to support rejections of the independent claims of the present application under 35 U.S.C. § 103(a).

In summary, Applicants believe that all rejections presented in the Final Office Action have been fully addressed and withdrawn of these rejections is respectfully requested. Applicants are mindful that their proposed amendments cannot, as a matter of right, be entered. Nonetheless, Applicants believe that their proposed amendments requires only a cursory review by the Examiner to remove issues from appeal. Applicants furthermore believe that all claims are now in a condition for allowance, which is earnestly solicited.

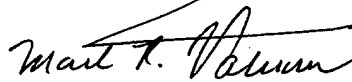
If there are any additional charges, please charge Deposit Account No. 02-2666.

If a telephone interview would in any way expedite the prosecution of the present application, the Examiner is invited to contact Mark Vatuone at (408) 947-8200.

Respectfully submitted,

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